

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

**IN RE AUTOMOTIVE PARTS ANTITRUST
LITIGATION**

CASE NO. 12-MD-02311

HON. MARIANNE O. BATTANI

In Re: HEATER CONTROL PANELS CASES

2:12-cv-00401-MOB-MKM

THIS RELATES TO:

2:17-cv-11109-MOB-MKM

ALL DIRECT PURCHASER ACTIONS

**ORDER GRANTING PRELIMINARY APPROVAL OF PROPOSED SETTLEMENT
WITH TOKAI RIKA DEFENDANTS AND AUTHORIZING DISSEMINATION OF
NOTICE TO THE DIRECT PURCHASER ALPS,
SUMITOMO, AND TOKAI RIKA SETTLEMENT CLASSES**

Upon consideration of the Direct Purchaser Plaintiff's Motion for Preliminary Approval of Proposed Settlement with Tokai Rika Defendants and for Authorization to Disseminate Notice to the Direct Purchaser Alps, Sumitomo and Tokai Rika Settlement Classes (the "Motion"), and supporting memorandum (the "Notice Memorandum"), it is hereby ORDERED as follows:

1. The Motion is hereby **GRANTED**.

Preliminary Approval of Tokai Rika Settlement Agreement

2. The terms of the Tokai Rika Settlement Agreement are hereby preliminarily approved as being fair, reasonable, and adequate to the Tokai Rika Settlement Class, subject to a Fairness Hearing. The Court finds that the Tokai Rika Settlement Agreement was entered into at arm's length by experienced counsel and is sufficiently within the range of reasonableness that notice of the Settlement Agreement should be given to members of the proposed Tokai Rika Settlement Class.

3. Notice of the proposed settlements with the Sumitomo and Alps Defendants, and related matters, shall also be provided to members of the Sumitomo and Alps Settlement Classes, which were provisionally certified by the Court respectively on February 10, 2017 and on August 25, 2017. (2:12-cv-00401, Doc. No. 122 and 131).

Class Certification

4. Pursuant to Rule 23 of the Federal Rules of Civil Procedure and in light of the proposed Tokai Rika settlement, the Court hereby finds that the prerequisites for a class action have been met and provisionally certifies the following class for settlement purposes (the “Tokai Rika Settlement Class”):

All individuals and entities who purchased Heater Control Panels in the United States directly from one or more of the Defendants or their co-conspirators (or their controlled subsidiaries, affiliates, or joint ventures) from January 1, 2000 through March 23, 2017. Excluded from the Settlement Class are Defendants, their present and former parent companies, subsidiaries, and affiliates, federal governmental entities and instrumentalities of the federal government, and states and their subdivisions, agencies and instrumentalities.

5. For purposes of the Tokai Rika Settlement Class definition, the Defendants are: Alps Electric Co., Ltd.; Alps Electric (North America), Inc.; Alps Automotive Inc.; Denso Corporation; Denso International America, Inc.; Sumitomo Electric Industries, Ltd.; Sumitomo Wiring Systems, Ltd.; Sumitomo Electric Wiring Systems, Inc.; Tokai Rika Co., Ltd.; and TRAM, Inc.

6. The Court finds that provisional certification of the Tokai Rika Settlement Class is warranted in light of the Tokai Rika Settlement Agreement because: (a) the Settlement Class is so numerous that joinder is impracticable; (b) the Class Representative’s claims present common issues and are typical of the Settlement Class; (c) the Class Representative and Settlement Class

Counsel (identified below) will fairly and adequately represent the Settlement Class; and (d) common issues predominate over any individual issues affecting the members of the Settlement Class. The Court further finds that the Class Representative's interests are aligned with the interests of all other members of the Tokai Rika Settlement Class. The Court also finds that settlement of this action on a class basis is superior to other means of resolving the matter.

Appointment of Class Representative and Settlement Class Counsel

7. The Court hereby appoints Tiffin Motor Homes, Inc. to serve as Class Representative for the Tokai Rika Settlement Class.

8. The Court hereby appoints the law firms of Freed Kanner London & Millen LLC, Kohn, Swift & Graf, P.C., Preti, Flaherty, Beliveau & Pachios LLP, and Spector Roseman & Kodroff, P.C. to serve as Settlement Class Counsel for the Tokai Rika Settlement Class, having determined that the requirements of Rule 23(g) of the Federal Rules of Civil Procedure are fully satisfied by these appointments.

Notice to Potential Tokai Rika, Alps and Sumitomo Settlement Class Members

9. The Court approves the form and content of the: (a) Notice of Proposed Settlements of Direct Purchaser Class Action with Sumitomo, Alps and Tokai Rika Defendants and Hearing on Settlement Approval and Related Matters (the "Notice"), attached as Exhibit 2 to the Notice Memorandum; and (b) Summary Notice of Proposed Settlements of Direct Purchaser Class Action with Sumitomo, Alps and Tokai Rika Defendants and Hearing on Settlement Approval and Related Matters (the "Summary Notice"), attached as Exhibit 3 to the Notice Memorandum.

10. The Court finds that the mailing and publication of the Notice and Summary Notice, respectively, in the manner set forth herein constitutes the best notice practicable under

the circumstances and is valid, due and sufficient notice to all persons entitled thereto and complies fully with the requirements of Federal Rule of Civil Procedure 23 and the due process requirements of the Constitution of the United States.

11. On or before August 16, 2018, the Notice, in substantially the same form as Exhibit 2 to the Notice Memorandum, shall be mailed by first class mail, postage prepaid, to all potential members of the Sumitomo, Alps and Tokai Rika Settlement Classes identified by Defendants. The Notice shall also be provided to all persons who request it in response to the Summary Notice. In addition, a copy of the Notice shall be posted on the Internet at www.autopartsantitrustlitigation.com, the website dedicated to this litigation.

12. On or before August 27, 2018, Settlement Class Counsel shall cause the Summary Notice, in substantially the same form as Exhibit 3 to the Notice Memorandum, to be published in one edition of *Automotive News*. Additionally, an online banner notice will appear over a 21-day period on www.AutoNews.com, the digital version of *Automotive News*. To supplement the notice program further, an Informational Press Release will be issued nationwide via PR Newswire's "Auto Wire," which targets auto industry trade publications.

13. On or before September 17, 2018, Settlement Class Counsel shall file with the Court their motion or motions for: final approval of the proposed Sumitomo, Alps and Tokai Rika settlements; approval of a proposed plan of distribution of the Sumitomo, Alps and Tokai Rika settlement funds; an award from the Sumitomo, Alps and Tokai Rika settlement funds of attorneys' fees, litigation costs and expenses; and an award of incentive payments to the Class Representatives.

14. All requests for exclusion from either the Sumitomo, Alps or Tokai Rika Settlement Classes must be in writing, postmarked no later than October 5, 2018 and must

otherwise comply with the requirements set forth in the Notice.

15. Any objection by any member of the Sumitomo, Alps or Tokai Rika Settlement Classes to any of the proposed settlements, the proposed plan of distribution of the Sumitomo, Alps and Tokai Rika settlement funds, the award from the Sumitomo, Alps and Tokai Rika settlement funds of attorneys' fees, litigation costs and expenses, or the request for an award of incentive payments to the Class Representatives, must be in writing, must be filed with the Clerk of Court and postmarked no later than October 5, 2018, and must otherwise comply with requirements set forth in the Notice.

16. Each member of the Sumitomo Settlement Class shall retain all rights and causes of action with respect to claims against any Defendant other than Sumitomo Electric Industries, Ltd., Sumitomo Wiring Systems, Ltd., and Sumitomo Electric Wiring Systems, Inc., regardless of whether such Settlement Class member decides to remain in, or request exclusion from, the Sumitomo Settlement Class.

17. Each member of the Alps Settlement Class shall retain all rights and causes of action with respect to claims against any Defendant other than Alps Electric Co., Ltd., Alps Electric (North America), Inc., and Alps Automotive Inc., regardless of whether such Settlement Class member decides to remain in, or request exclusion from, the Alps Settlement Class.

18. Each member of the Tokai Rika Settlement Class shall retain all rights and causes of action with respect to claims against any Defendant other than Tokai Rika Co., Ltd. and TRAM, Inc. d/b/a Tokai Rika U.S.A. Inc., regardless of whether such Settlement Class member decides to remain in, or request exclusion from, the Tokai Rika Settlement Class.

19. At least ten (10) days before the date fixed by this Court for the Fairness Hearing, Settlement Class Counsel shall file with the Court affidavits or declarations of the person under

whose general direction the mailing and posting of the Notice, and publication of the Summary Notice, were made, showing that mailing, posting and publication were made in accordance with this Order.

20. The Court will hold a Fairness Hearing on November 8, 2018, at 12:00 p.m., at the Theodore Levin U.S. Courthouse, 231 West Lafayette Blvd., Detroit MI, 48226, Courtroom 737 (or such other courtroom as may be assigned for the hearing), to determine whether: (1) the proposed settlements with Sumitomo, Alps and Tokai Rika are fair, reasonable and adequate and should be approved; (2) to approve the proposed plan of distribution of the Sumitomo, Alps and Tokai Rika settlement funds; (3) Settlement Class Counsel's request for an award of attorneys' fees and litigation costs and expenses should be approved; and (4) to approve the request for an award of incentive payments to the Class Representative. Any Settlement Class member who follows the procedure set forth in the Notice may appear and be heard at this hearing. The Fairness Hearing may be rescheduled, adjourned or continued, and the courtroom assigned for the hearing may be changed, without further notice to the Settlement Classes.

21. Any Settlement Class member who wishes to participate in the distribution of the Sumitomo, Alps or Tokai Rika settlement funds must submit a Claim Form in accordance with the instructions therein. Any Claim Form submitted electronically must be submitted on or before November 21, 2018. Any Claim Form submitted via mail must be postmarked on or before November 21, 2018.

Other Provisions

22. The Court's provisional certification of the Tokai Rika Settlement Class as provided herein is without prejudice to, or waiver of, the rights of any Defendant to contest certification of any other class proposed in these coordinated actions. The Court's findings in

this Order shall have no effect on the Court's ruling on any motion to certify any class in these actions or on the Court's rulings concerning any Defendant's motion, and no party may cite or refer to the Court's approval of the Tokai Rika Settlement Class as persuasive or binding authority with respect to any motion to certify any such class or any Defendant's motion.

23. The Court approves the escrow account referenced in the Tokai Rika Settlement Agreement as a qualified settlement fund ("QSF") pursuant to Internal Revenue Code Section 468B and the Treasury Regulations promulgated thereunder and retains continuing jurisdiction as to any issue that may arise in connection with the formation or administration of the QSF. Settlement Class Counsel are authorized to use funds from the QSF in accordance with the Tokai Rika Settlement Agreement, including to pay costs of notice, taxes, tax expenses and settlement administration costs.

24. The Direct Purchaser Class litigation against Tokai Rika is stayed except to the extent necessary to effectuate the Settlement Agreement.

IT IS SO ORDERED.

Date: July 27, 2018

s/Marianne O. Battani
MARIANNE O. BATTANI
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Order was served upon counsel of record via the Court's ECF System to their respective email addresses or First Class U.S. mail to the non-ECF participants on July 27, 2018.

s/ Kay Doaks
Case Manager